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| PRE-APPEAL BRIEF REQUEST FOR REVIEW                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | Docket Number (Optional)<br>24061.79/2003-0322                                                                                                                                     |                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>March 28, 2006</u></p> <p>Signature <u>Bonnie Boyle</u></p> <p>Typed or printed name <u>Bonnie Boyle</u></p>                                                                               |  | Application Number<br>10/801,234                                                                                                                                                   | Filed<br>March 16, 2004      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  | First Named Inventor<br>Fu-Hsin Chen, et al.                                                                                                                                       |                              |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  | Art Unit<br>2811                                                                                                                                                                   | Examiner<br>Thomas L. Dickey |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).<br/>Note: No more than five (5) pages may be provided.</p>                                                                                                                                       |  |                                                                                                                                                                                    |                              |
| <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest.<br/>See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.<br/>(Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record.<br/>Registration number <u>42,044</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.<br/>Registration number if acting under 37 CFR 1.34 _____</p> |  | <p><u>David M. O'Dell</u><br/>Signature</p> <p>David M. O'Dell<br/>Typed or printed name</p> <p><u>972 739-8635</u><br/>Telephone number</p> <p><u>March 28, 2006</u><br/>Date</p> |                              |
| <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>                                                                                                                                                                                                                                                                            |  |                                                                                                                                                                                    |                              |
| <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>                                                                                                                                                                                                                                                                                                                                                                                                                     |  |                                                                                                                                                                                    |                              |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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### REASONS

In the final rejection mailed September 28, 2005, claims 8-11 and 24-28 were pending and under consideration. (Claims 1-7 and 12-23 were withdrawn from consideration). Claims 8, 9, 24, 28, and 28 stood rejected, claims 10, 11, 26, and 27 stood objected to. In response to the final rejection, applicant submitted an amendment that cancelled the withdrawn claims 1-7 and 12-23 and provided arguments (without amendment) for the remaining claims. On December 2, 2005, the Examiner issued an Advisory Action that maintained his prior rejections, but entered the amendment of cancelling the withdrawn claims. As a result, claims 8-11 and 24-28 are now pending. None of the pending claims have been amended during prosecution of this application.

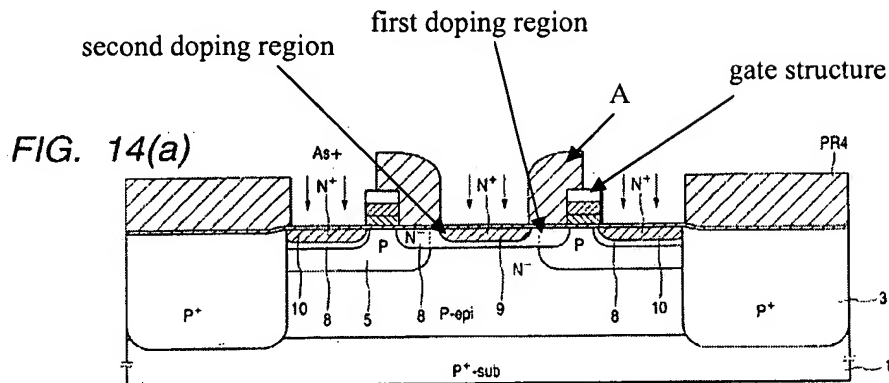
Independent claims 8, 24, and 28 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hoshino et al. (2001/0012671). It is respectfully submitted that there are clear errors with the examiner's rejection. More specifically, and as described below, the rejection has two clear legal deficiencies because the asserted prior art lacks essential elements to establish a prima facie rejection. The PTO specifies in MPEP §2131 that, to anticipate a claim, a reference must teach each and every element recited in the claim.

#### "adjacent to the edge of the first side of the gate structure"

A first clear error is that the limitation of "a second doping region ... adjacent to the edge of the first side of the gate structure" (independent claim 8) is missing from Hoshino et al. The Examiner has focused his rejection of this element on Fig. 14a of Hoshino et al., which has been reproduced below. The applicant has annotated the figure below consistent with the Examiner's statements equating dopant region 9 to the claimed "second doping region", dopant region 8 to the claimed "first doping region", and the claimed "gate structure."<sup>1</sup>

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<sup>1</sup> It is understood that by annotating Fig. 14a, the applicant is not acquiescing to the Examiner's construction, but is instead providing this annotated drawing to facilitate the present discussion.



Applicant hereby submits that Hoshino et al. does not disclose a "second doping region ... adjacent to the edge on the first side of the gate structure". Instead, the dopant region 8 is aligned with a portion of photoresist PR4 (annotated with the letter "A" in the drawing above). Photoresist is not gate spacer, nor is it part of a gate structure. Also, the photoresist portion A of Hoshino et al. is in the source region, not the drain region. (See paragraph 0211). Therefore, for this independent reason, claim 8 is not anticipated by Hoshino et al.

Independent claims 24 and 28 explicitly require a "spacer". In the final office action, the examiner equated this element to the portion of photoresist A discussed above. The term "spacer" is known in the semiconductor art, and the broadest reasonable interpretation of the term would not include photoresist as used in Hoshino et al. Therefore, for this independent reason, claims 24 and 28 are not anticipated by Hoshino et al.

"first doping region ... partially covered by the gate structure"

A second clear error is that the limitation of a "first doping region ... partially covered by the gate structure" (independent claim 8) is missing from the prior art. Using the annotated drawing above, the dopant region 9 is aligned with the gate structure, and is not partially covered thereby. This is further supported by Hoshino et al, where it describes that "a low impurity concentration semiconductor region 8 is formed by self alignment to the gate electrode 7". (paragraph 0208). Clearly, the first doping region 8 is aligned with the gate electrode and is not "partially covered by the gate structure." Therefore, for this independent reason, claim 8 is not anticipated by Hoshino et al.

Independent claims 24 and 28 require "a gate structure ... covering a portion of the first drain region", and for similar reasons as discussed above with reference to claim 8, are not anticipated by Hoshino et al.

Applicants have therefore shown two clear legal deficiencies. Consequently, the rejection is clearly not proper and is without basis, and it is therefore respectfully requested that it be withdrawn.

Respectfully submitted,



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